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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/693,089

10/24/2003

Kelley Jones

SASL:013\HON

8449

7590

03/01/2007

Docket Clerk  
P.O. Drawer 802432  
Dallas, TX 75380

EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/693,089

Applicant(s)

JONES, KELLEY

Examiner

M. Scott Lowe

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/8/07 & 1/3/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/8/07 has been entered.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 & 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "the second member" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant "the member" instead.

Claim 20 recites the limitation "the first member" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant "the handle" instead.

Claim 20 recites the limitation "the cutout" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant for this claim to depend from claim 19 instead of 15.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebre (US 3,041,101).

Re claims 1,2,8, Lebre teaches a tool that could be used for lifting a CMP pad T, comprising:

a non-pivoted jaw structure 18 (or 2) having an upper jaw portion with an arcuate lower surface and a lower jaw portion (not numbered), the lower jaw portion having outer and inner surfaces, wherein the inner surface is substantially flat and not parallel to the outer surface, the inner surface being operable to receive a portion of the pad T;

a first member 19 (or also 8 or 21) pivotally coupled to the jaw; and

a second member 20 ( or also 1 or 19 respectively) when pivotally coupled to the first member, the second member having a surface opposite to the inner surface of the lower jaw portion and operable for clamping the portion of the pad against the inner surface when the first member is pivoted upwards.

Re claims 3,9, Lebre teaches the jaw is arcuate.

Re claims 4,10, Lebre teaches the jaw 18 (or 2) comprises a first half (2a or 18a, or top of 18/2) coupled to a second half (2b or 18b, or bottom of 18/2).

Re claims 5,11, Lebre teaches in the figures that the lower jaw portion comprises a substantially flat outer surface.

Re claim 6,12 Lebre teaches the first member 19 (or also 8 or 21) comprises a cutout (not numbered) in which a portion of the second member 20 (or also 1 or 19 respectively) is pivotally positioned.

Re claim 7,14, Lebre teaches the surface of the second member 20 (or also 1 or 19 respectively) comprises a textured surface.

Re claim 13, Lebre teaches a cap (various apply including pin or sidewalls) coupled to the first member to laterally enclose the cutout.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebre (US 3,041,101).

Re claims 5,11, Lebre does not explicitly state in words whether the outer surface of the lower jaw is substantially flat (although it appears so from the figures, particularly figures 2,3,5 where it is clearly flat). Nonetheless, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Lebre to

have the outer surface of the lower jaw be substantially flat in order to make the manufacturing simpler and so the device could lay flat on the ground.

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebre (US 3,041,101) in view of Krauss (US 6,086,126).

Re claim 15, Lebre teaches a tool that could be used for lifting a CMP pad T, comprising:

- a non-pivoted jaw structure 18 (or 2) having an upper jaw portion with an arcuate lower surface and a lower jaw portion (not numbered), the lower jaw portion having outer and inner surfaces, wherein the inner surface is substantially flat and not parallel to the outer surface, the inner surface being operable to receive a portion of the pad T;
- a handle 10 pivotally coupled to the jaw; and
- a member (1 or 19 or 20 all meet this) pivotally coupled to the handle, the member having a textured surface projecting below the arcuate lower surface of the upper jaw portion and being opposite to the inner surface of the lower jaw portion, the textured surface being operable for clamping the portion of the pad against the inner surface when the handle is pivoted upwards.

Lebre is silent as to whether the inner surface of the lower jaw portion terminates at a lower end in a rounded end. However, Krauss teaches the inner surface of the lower jaw portion terminates at a lower end in a rounded end for safety. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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have modified Lebre by Krauss to have the inner surface of the lower jaw portion terminates at a lower end in a rounded end for safety.

Re claim 16, Lebre teaches the jaw is arcuate.

Re claim 17, Lebre teaches the jaw 18 (or 2) comprises a first half (2a or 18a, or top of 18/2) coupled to a second half (2b or 18b, or bottom of 18/2).

Re claim 18, Lebre teaches in the figures that the lower jaw portion comprises a substantially flat outer surface. If it is determined that Lebre does not teach this then it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Lebre to have the outer surface of the lower jaw be substantially flat in order to make the manufacturing simpler and so the device could lay flat on the ground.

Re claim 19, Lebre teaches the handle 10 comprises a cutout (not numbered) in which a portion of the member (1 or 19 or 20 all meet this) is pivotally positioned.

Re claim 20, Lebre teaches a cap (various apply including pin or sidewalls) coupled to the member to laterally enclose the cutout.

### ***Conclusion***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-W; Th work offsite.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl



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